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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,358	07/30/2001	Paul Dvorkis	04873-084001	1840
26453	7590	08/09/2004	EXAMINER	
BAKER & MCKENZIE 805 THIRD AVENUE NEW YORK, NY 10022			KIM, AHSHIK	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/918,358	Applicant(s) DVORKIS, PAUL	
	Examiner Ahshik Kim	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment

1. Receipt is acknowledged of the amendment filed on May 3, 2004. In the amendment
5 claim 19 was amended. Currently, claims 1-22 remain for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

10 (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
such that the subject matter as a whole would have been obvious at the time the invention was made to a person
having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the
manner in which the invention was made.

- 15 3. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr.
(US 5,149,949, hereinafter "Wike") in view of Reddersen et al. (US 5,296,689, hereinafter
"Reddersen").

Wike teaches an optical scanner for reading barcode code (col. 1, lines 6; col. 2, lines
20 23+) comprising light source (col. 2, lines 66+), which generates a raster scanning beams (see
claim 4). Although it can be inferred that the target are being scanned is comprised of brighter
area and less bright area (see figure 2). Obviously, the area with greater scanning beam density
would be brighter compared to area with less illumination and can serve as an alignment
guidance for the users.

25 However, Wike fails to specifically teach or fairly suggest that the scanner emits a
brighter area for aiming assistance to users.

Reddersen discloses an optical scanner comprising aiming beam component (see abstract). Reddersen further teaches that the aiming area 116a and 116b is brighter than the target area 115 (col. 3, lines 36+).

In view of Reddersen's, it would have been obvious to an ordinary skill in the art at the time the invention was made to employ well-known aiming beam which is brighter than the scan beam to the teachings of Wike in order to aiming enhancements to users. Aiming assistances such as a spotter beam (or many variations thereof, see enclosed references) are generally known in the art, and widely used in various embodiments. Accordingly, incorporating such modification would have been an obvious expedient, well within the ordinary skill in the art.

10

Allowable Subject Matter

4. Claims 3-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15 5. The following is a statement of reasons for the indication of allowable subject matter: the claims are directed at a raster code scanner reading two-dimensional optical code, and in particular scanning beam creates the region of apparent greater brightness for assisting in alignment of two-dimensional scanning pattern. As found in many references provided by Applicant, alignment of the reader to the target (i.e., spotter beams, cross-hair marker, and other
20 form of mark around the target or in the viewing area of the reader) is well known in the art, and widely used in the industry. However, the cited references, taken alone or in combinations, fail

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to suggest or teach the scanner producing an outgoing beam wherein the scanning spot is shaped differently from the shape of other regions as set forth in the claims.

Conclusion

5 I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Durbin (US 5,500,516); Danielson (US 5,534,684) disclose barcode reader system comprising aiming components. Applicant is respectfully suggested to carefully review these references.

10 II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax number directly to the
15 Examiner is (571)273-2393. The fax phone number for this Group is (703)872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

20 *All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

25 Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



30 Ahshik Kim
Patent Examiner
Art Unit 2876
August 4, 2004